

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DAEVON LYONS,

Plaintiff,

v.

MICHAEL MCGINNIS, et. al.,

Defendants.

ORDER

04-CV-6157L

On April 6, 2004, plaintiff filed a *pro se* complaint pursuant to 42 U.S.C. § 1983, alleging, *inter alia*, that defendants violated his constitutional rights under the Fifth, Eighth and Fourteenth Amendments. (Docket # 1). According to plaintiff, the Superintendent of Southport Correctional Facility, Michael McGinnis, and other named defendants conspired to compel him to confess to a crime he did not commit by subjecting him to cruel and unusual conditions of confinement, including beatings, harassment and deprivation of food and sleep. (Docket # 1).

By Order dated June 30, 2006, plaintiff was granted leave to amend the caption of his complaint in order to identify two previously unidentified defendants. (Docket # 130). On October 6, 2006, plaintiff filed a motion before this Court requesting leave to serve discovery requests upon the newly identified defendants. (Docket # 151). On that same date, plaintiff also served several discovery requests upon the original defendants, specifically relating to the identification of inmates housed at A-10 Company and B-18 Company at Attica Correctional Facility on various dates. (Docket ## 157, 158, 159). Thereafter, on March 2, 2007, plaintiff

moved to compel responses to his discovery requests. (Docket ## 165, 166). By letter dated April 16, 2007, counsel for the defendants has advised that he has provided plaintiff with reconstructed cell book printouts, which provided the information sought in plaintiff's discovery requests. (See Docket # 170). Accordingly, because it appears that plaintiff has already been provided with the information he seeks, his motions to compel such information (**Docket ## 165, 166**) are **DENIED as MOOT**. To the extent plaintiff seeks leave to serve different discovery requests upon the newly identified defendants, such motion (**Docket # 151**) is **GRANTED**.

IT IS SO ORDERED.

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
August 2, 2007